IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9761 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

CHIRAG LALJIBHAI DESAI THRO' FATHER LALJIBHAI B DESAI

Versus

DISTRICT MAGISTRATE

Appearance:

MS BANNA DATTA FOR MR MRUGEN K PUROHIT for Petitioner

MR HH PATEL for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 22/01/2001

ORAL JUDGEMENT

#. Request made for adjournment of the matter for filing of the reply by learned counsel for the respondents is wholly unjustified, unreasonable and in fact, it amounts to denial of right of speedy disposal of the matters to the detenu. If the authorities detain a person under the PASA Act, it is their duty to act fairly in a judicial

matter where the matter has been taken up fairly by the detenu by filing reply immediately on receipt of notice. That precisely has not been done. The matter was admitted on 18.9.2000. This court's order reads as under:

> Rule returnable on the date on which completion of three weeks from today, takes place, with a direction to the respondents to file their respective affidavits in reply, if they so desire.
>
> Office is directed to place this matter on final hearing Board after service of Rule in seriatim as per chronological order of actual date of execution of detention order on detenu, in each case keeping in mind the Register which has been ordered to be kept and maintained. Direct service is permitted.

So the respondents were to file reply within completion of three weeks from the returnable date. This court had given specific direction to the respondents to file reply but still, they have not cared to file reply to the special civil application. From this act of the respondents, twofold possible inference can be drawn, firstly, that the officers are wholly careless, negligent and totally unmindful of their duties which they owe to the public and second, that they have not filed reply to make it easy for the petitioner to get his order of detention set aside by this court. Both things are serious but it is a matter to be taken care of not by this court but by the State of Gujarat.

#. The learned counsel for the petitioner submits that this matter is squarely covered by decision of the Hon'ble Supreme Court in the case reported in 1990(2) SCC 1. Elaborating this contention, it is contended that the petitioner though prayed for supply of copies of bail application which was preferred by him to the Sessions Court, Ahmedabad Rural, same were not given to him by respondents. This averment has been made by petitioner in paragraph-p at page-13 of the special civil application. The respondents have not filed reply to the special civil application and these averments made by petitioner stand uncontroverted, meaning thereby, stand admitted by respondents. As the petitioner has not been given copy of the bail application which has been filed before the Sessions Court, Ahmedabad Rural, his right to make effective representation has been denied and it is clear case of violation of provisions of Article 22(5) of

the Constitution.

#. In the result, this special civil application succeeds and the same is allowed and the order dated 4.9.2000 passed by the District Magistrate, Gandhinagar, detaining the petitioner as a `dangerous person' is quashed and set aside and the petitioner - Chirag Laljibhai Desai, detenu, at present detained at District Jail, Nadiad, be set at liberty forthwith if he is not required in any other case. Rule is made absolute. The respondent-State of Gujarat is directed to pay Rs.5,000/= as costs of this petition to the petitioner as what the learned counsel for the petitioner states that this amount has been charged by her to provide professional services to this person and this amount has been paid by him. This amount has to be recovered by the State of Gujarat from the officer concerned who is responsible for this non filing of reply to the special civil application.

.....

(sunil)